

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

WILLIAM FRANCIS, JR.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civ. Action No. 07-015-JJF
	:	
WARDEN THOMAS CARROLL,	:	
CORRECTIONAL MEDICAL	:	
SERVICES, STAN TAYLOR, and	:	
JOYCE TALLEY,	:	
	:	
Defendants.	:	

ORDER

At Wilmington this 23 day of April, 2007, Plaintiff having satisfied the filing prerequisites of 28 U.S.C. § 1915A and the Court having identified cognizable claims within the meaning of 28 U.S.C. § 1915A(b);

IT IS ORDERED that:

1. The Clerk of the Court shall cause a copy of this Order to be mailed to Plaintiff.

2. Prior to service, Plaintiff filed a Motion To Amend Complaint (D.I. 9.) "A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served." Fed. R. Civ. P. 15(a). Therefore, the Court construes the Motion To Amend Complaint as an Amended Complaint.

3. The original Complaint refers to Correctional Medical Service ("CMS") as the healthcare provider at the Delaware Correctional Center ("DCC"). The Amended Complaint amends Defendant CMS to reflect that its regional office in Dover,

Delaware, is a subsidiary and representative of CMS, and that its office in St. Louis, Missouri, is the exclusive health services provider for DCC. Plaintiff lists each CMS location as a separate Defendant. Plaintiff may advance several theories against CMS, but it is not necessary to name CMS as a Defendant for each theory. The Amended Complaint also adds as Defendants former Commissioner for the Delaware Department of Correction Stan Taylor and Joyce Talley.

IT IS FURTHER ORDERED that:

1. Pursuant to Fed. R. Civ. P. 4(c)(2) and (d)(2), Plaintiff shall complete and return to the Clerk of the Court **original "U.S. Marshal-285" forms for Defendants Warden Thomas Carroll, Correctional Medical Services, Stan Taylor, and Joyce Talley**, as well as for the Attorney General of the State of Delaware, 820 N. FRENCH STREET, WILMINGTON, DELAWARE, 19801, pursuant to DEL. CODE ANN. tit. 10 § 3103(c). **Additionally, Plaintiff shall provide the Court with copies of the Complaint (D.I. 2) and the Amended Complaint (D.I. 9), for service upon the Defendants and the Attorney General. Plaintiff is notified that the United States Marshal will not serve the Complaint and other referenced filings until all "U.S. Marshal 285" forms have been received by the Clerk of the Court. Failure to provide the "U.S. Marshal 285" forms for each Defendant and the Attorney General within 120 days from the date of this Order may result in the**

**Complaint being dismissed or Defendants being dismissed pursuant to Federal Rule of Civil Procedure 4(m).**

2. Upon receipt of the form(s) required by paragraph 1 above, the United States Marshal shall forthwith serve a copy of the Complaint (D.I. 2), Amended Complaint (D.I. 9), this Order, a "Notice of Lawsuit" form, the filing fee order(s), and a "Return of Waiver" form upon each of the Defendants so identified in each 285 form.

3. Within **thirty (30) days** from the date that the "Notice of Lawsuit" and "Return of Waiver" forms are sent, if an executed "Waiver of Service of Summons" form has not been received from a Defendant, the United States Marshal shall personally serve said Defendants pursuant to Fed. R. Civ. P. 4(c)(2) and said Defendants shall be required to bear the cost related to such service, unless good cause is shown for failure to sign and return the waiver.

4. Pursuant to Fed. R. Civ. P. 4(d)(3), a Defendant who, before being served with process timely returns a waiver as requested, is required to answer or otherwise respond to the complaint within **sixty (60) days** from the date upon which the Complaint, this Order, the "Notice of Lawsuit" form, and the "Return of Waiver" form are sent. If a defendant responds by way of a motion, said motion shall be accompanied by a brief or a memorandum of points and authorities and any supporting

affidavits.

5. No communication, including pleadings, briefs, statement of position, etc., will be considered by the Court in this civil action unless the documents reflect proof of service upon the parties or their counsel.

6. **NOTE: \*\*\*** When an amended complaint is filed prior to service, the Court will **VACATE** all previous service Orders entered, and service **will not take place**. An amended complaint filed prior to service shall be subject to re-screening pursuant to 28 U.S.C. §1915(e)(2) and § 1915A(a). **\*\*\***

7. **NOTE: \*\*\*** Discovery motions and motions for appointment of counsel filed prior to service will be dismissed without prejudice, with leave to refile following service. **\*\*\***

  
UNITED STATES DISTRICT JUDGE